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November 29, 1988

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PHILIP MORRIS MANAGEMENT CORP.
LAW DEPT.—PATENT SECTION

DEC - 2 1988

NOTED

AIR MAIL

Mr. P. Antony Smith
Reddie & Grose
16 Theobalds Road
London WC1X 8PL
ENGLAND

Re: German Pat. Appln. No. P 31 18 472.3
Your File: 23844
Our File: PM-1088/89 (Germany)

Dear Antony:

I have now had the benefit of Mr. Lanzilotti's comments and have discussed this case with Jim Schardt, and believe we should proceed as follows:

The limitation of claim 6, relating to the cross-sectional area of the passage, should be incorporated into claim 1. Claim 1 should also be amended to define the passage as being in fluid communication with the tobacco-containing mass.

The secondary reference, German published patent application no. 26 20 298, shows an article with a passage which appears to meet the area limitation, but is walled-off from the tobacco portion of the article by a smoke-impervious wall 35. Therefore, it would not suggest that the passage of the primary reference, Swiss patent no. 275420, which is in fluid communication with the tobacco material in the article of that reference, should have a larger area.

Mr. Lanzilotti states that the larger cross-sectional area of the passage allows for greater dilution because more air can enter the passage, and that the density of the article wall can be greater without the article having excessive total weight. As to this last, I refer you to column 2, line 63-column 3, line 38,

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of the issued U.S. parent case PM-1088, now U.S. Patent 4,391,285 (copy enclosed). I do not have the combined PM-1088/89 text used for foreign filing, but I assume that similar language can be found in it.

As far as method claims 13-51 are concerned, the limitation of claim 20--that the liquid used in making the tobacco material is water and a volatile organic liquid--should be incorporated into claim 13. The primary reference shows only water, while the secondary reference uses ordinary tobacco filler and so uses no liquid.

According to Mr. Lanzilotti, the use of a volatile organic liquid helps extract binders from the tobacco which aid the formation of the extruded product and particularly its density. In addition, as stated at column 4, lines 15-18, of the issued U.S. patent, there may be other reasons for the improvement in density caused by the volatile liquid.

For your convenience, I enclose translations of the two references, which you may not have.

Please prepare a response in accordance with the suggestions above. If necessary, please feel free to contact me or Jim Schardt.

Very truly yours,

JEFFREY H. INGERMAN

JHI:bas
Enclosures

Jeffrey H. Ingerman

cc: Ms. Beverly A. Monroe (w/o encs.)

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